Appl. No. : 10/623,482
Filed : July 18, 2003

REMARKS

In the final Office Action mailed on November 3, 2005, the Examiner rejected all pending claims under 35 U.S.C. § 103(a). In the Advisory mailed on February 10, 2006, the Examiner maintained his rejections.

The Examiner's rejections of the claims are based upon Luo *et al.* (U.S. Patent Application Publication No. 2003/0059535) and Todd *et al.* (U.S. Patent Application Publication No. 2003/0082300) in combination with various secondary references. Todd *et al.* is asserted to provide a suggestion to combine the various references.

In Applicants' response to the final Office Action, Applicants noted that Todd *et al.* is 35 U.S.C. § 102(e) prior art to the present Application and, due to being co-owned with the present Application, is not available as prior art for 35 U.S.C. § 103(a) rejections. In response, the Examiner stated in the Advisory Action that Todd *et al.* was available as 35 U.S.C. § 102(a) prior art and, thus, the asserted combination was permissible and the rejections stand.

Applicants respectfully traverse the rejections.

Applicants note that the Application is entitled to the priority benefit of U.S. Provisional Application No. 60/397,576, filed July 19, 2002, and that such priority is clearly indicated on page 1 of the specification. All presently pending claims are entitle to a priority date of July 19, 2002. In contrast, Todd *et al.* was published after this date, on May 1, 2003. As such, Todd *et al.* is not prior art under 35 U.S.C. § 102(a), nor under any other sections.

In the Advisory Action, the Examiner referenced Applicants' discussion on page 6 of the Response to Final Office Action, mailed January 3, 2006, as indicating that Todd *et al.* had a publication date earlier than the priority date of the Application and, thus, was available as 35 U.S.C. § 102(a) prior art. This is incorrect. Applicants noted that Todd *et al.* had an earlier publication date than the Application's ***filing date***; Applicants did not state that Todd *et al.* published before the Application's ***priority date.***

The obliqueness of Applicants' statements appears to have caused some confusion as to the relevant dates in this case. Applicants have attempted to clarify the status of Todd *et al.*, as noted above. To summarize, Todd *et al.* published after the Application's priority date and, so, is not 35 U.S.C. § 102(a) prior art. Todd *et al.*, however, was filed before the Application's priority date and therefore is presumptively prior art under 35 U.S.C. § 102(e). Applicants

Appl. No. : **10/623,482**
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reserve the right to swear back of this reference if appropriate. However, because Todd *et al.* and the present Application are co-owned, under 35 U.S.C. § 103(c), Todd *et al.* is not available to support the Examiner's obviousness rejections.

Accordingly, as noted in the previous Response to Final Office Action, mailed January 3, 2006, the art of record does not establish a *prima facie* case of obviousness. Todd *et al.* is the sole reference provided by the Examiner to establish the requisite motivation to combine the various asserted references. Because it is not available as prior art for obviousness rejections against the Application, the art of record fails to establish a *prima facie* case of obviousness. As a result, Applicants respectfully request that the rejections be withdrawn.

CONCLUSIONS

In view of the foregoing amendments and remarks, Applicants request entry of the amendments and submit that the application is in condition for allowance and respectfully request the same. If some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 3, 2006

By: Adeel Syed Akhtar

Adeel S. Akhtar
Registration No. 41,394
Attorney of Record
Customer No. 20,995
(415) 954-4114

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